

RECEIVED

JUL 14 1997

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Advanced Television Systems )  
and Their Impact Upon the )  
Existing Television Broadcast )  
Service )  
 )

MM Docket No. 87-268

TO: The Commission

OPPOSITION TO  
WARWICK COMMUNICATIONS, INC.'S  
PETITION FOR PARTIAL RECONSIDERATION  
OF THE SIXTH REPORT AND ORDER

Max Television of Tyler L.P. ("Max Television") by and through its attorneys and pursuant to Section 1.429 of the Commission's rules, hereby opposes the Petition for Partial Reconsideration of the Sixth Report and Order (the "Petition") filed by Warwick Communications, Inc. ("Warwick") in the above captioned matter.

Max Television is the licensee of KETK-TV, NTSC Channel 56, in Jacksonville, Texas. The Sixth Report and Order ("R&O") recently paired KETK-TV with DTV Channel 22. Warwick Communications, Inc. is the licensee of low power television station K22EH, also known as KLPN, currently operated on Channel 22 at Longville, Texas. Warwick asserts in its Petition that it would be forced to cease operation of KLPN if Max Television activates its DTV facility. However, the Commission clearly recognized in

the R&O that some secondary LPTV utilization of the TV spectrum would be required as is the case here. Warwick seeks to protect its interests in Channel 22 by proposing that, for DTV purposes, KETK-TV be assigned Channel 57, instead of Channel 22. As demonstrated below, the proposal is without merit and infeasible.

Warwick missed the point of the R&O. The Commission specifically stated that the "most advantageous approach for assignment of DTV channels is to match stations with the channel that best replicates their existing service areas."<sup>1/</sup> There was no attempt made to protect LPTV existing channel assignments. In fact, the Commission very specifically considered the unavoidable displacement of LPTV stations and stated that "during the transition there is simply not enough available spectrum to preserve all existing translators and LPTV stations."<sup>2/</sup> The Commission stated unequivocally and repeatedly that LPTV stations would receive a secondary allocation status.<sup>3/</sup> The R&O recognized the public benefits of low power stations and therefore outlined several measures designed to lessen the impact of the DTV allotments.<sup>4/</sup> None of these measures attempt to protect the channel designation of a LPTV station at the expense of a full power DTV allotment.

---

<sup>1/</sup> See, Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-269, released April 21, 1997, ¶90.

<sup>2/</sup> Sixth Report and Order, ¶ 65.

<sup>3/</sup> See e.g., Sixth Report and Order, ¶¶ 11, 81, 142, 143.

<sup>4/</sup> See, Sixth Report and Order, ¶¶ 141-147.

Warwick's proposal that KETK-TV be paired with DTV Channel 57 rather than Channel 22 contravenes one of the Commission's stated goals in this proceeding. "One of our principal concerns is to provide broadcasters with the best possible spectrum for DTV operation... [C]hannels 7-51 are the most suitable frequencies for DTV service."<sup>5</sup>/ Channel assignments attempted to "minimize interference to all station and to balance unavoidable interference between both NTSC and DTV stations equally..."<sup>6</sup>/ The Commission recognized that during the transition some broadcasters would be provided DTV channels outside of the "core" area, but such broadcasters would have to move their DTV operations to a channel in the core spectrum when one became available.<sup>7</sup>/ If KETK-TV is paired with Channel 57 as suggested by Warwick, the station will eventually have to move to the core area anyway. This will cause the station considerable and needless time and expense.

Furthermore, as explained more fully in the attached engineering statement, there is ample evidence that pairing KETK-TV with Channel 22 has significant and demonstrable advantages over the suggested pairing with Channel 57. KETK-DTV on Channel 22 would create 0 sq. km of predicted interference to other stations and it would receive 3 sq. km. of interference from other stations.

---

<sup>5</sup>/ Sixth Report and Order, ¶ 82.

<sup>6</sup>/ Sixth Report and Order, ¶ 87.

<sup>7</sup>/ See, Sixth Report and Order, ¶ 36.

The use of Channel 57 would create 41 sq. km of predicted interference and would receive a whopping 337 sq. km of predicted interference. Also, there is the potential interference to and from KETK-TV (channel 56), with which channel 57 would be paired. It is apparent, and the Commission fully recognized, that pairing KETK-TV with Channel 22 is the superior and appropriate course of action.

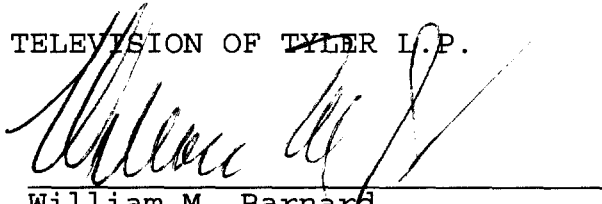
In its haste to protect Channel 22 for its own use, Warwick neglected to consider other possibilities. The attached engineering explains that there is at least one other feasible channel possibility for K22EH. There is absolutely no evidence to suggest that K22EH would be forced to cease operations entirely if KETK-DTV operates at Channel 22.

In conclusion, in establishing the Sixth Report and Order, the Commission carefully and methodically examined the channel allotments for DTV and paired KETK-TV with Channel 22 because it is the best fit. It is illogical to suggest that the Commission should protect the channel designation of one low power television station at the expense of the public's interest in DTV. Warwick Communications Inc.'s Petition for Reconsideration should be dismissed in its entirety.

Respectfully submitted,

MAX TELEVISION OF TYLER L.P.

By:

A handwritten signature in dark ink, appearing to read "William M. Barnard", is written over a horizontal line.

William M. Barnard  
Jill Canfield  
Evans & Sill, P.C.  
1627 Eye Street, N.W.  
Suite 810  
Washington, D.C. 20006  
(202) 293-0700 (Telephone)  
(202) 659-5409 (Telecopy)

Its Attorneys

Date: July 14, 1997

ENGINEERING STATEMENT  
IN SUPPORT OF OPPOSITION TO PETITION FOR RECONSIDERATION  
PREPARED FOR  
MAX TELEVISION OF TYLER, L.P.  
KETK-TV JACKSONVILLE, TEXAS  
NTSC CHANNEL 56  
DTV CHANNEL 22

This Engineering Statement was prepared on behalf of Max Television of Tyler, L.P., licensee of KETK-TV, Jacksonville, Texas (NTSC Channel 56, DTV Channel 22), in support of an Opposition to a Petition for Reconsideration concerning the FCC's digital television ("DTV") *Sixth Report and Order* ("*Sixth Order*") filed by Warwick Communications, Inc. ("Warwick"). Warwick is the licensee of LPTV station K22EH at Longview, Texas.

In its Petition for Reconsideration, Warwick states that K22EH will be displaced by KETK-TV's DTV allotment of Channel 22 ("KETK-DTV"). Since K22EH will be located 57.8 km from KETK-DTV, we agree that K22EH would be displaced by KETK-DTV and would be required to migrate to another channel. Warwick offers the suggestion that KETK-TV be allotted Channel 57 in lieu of Channel 22 to obviate the need for K22EH to migrate to another channel. This proposal is flawed in a number of respects:

1. TV translator and LPTV services were established as services secondary to full-service TV stations such as KETK-TV. The Commission has held that TV translator and LPTV stations are secondary to a full-service station's DTV

- allotment. K22EH is not entitled to protection from KETK-TV or KETK-DTV.\*
2. Channel 57 is outside of the ultimate core band, which extends to Channel 51. The allotment of Channel 57 would ultimately result in a costly second migration for KETK-DTV when Channel 57 is recovered for re-allotment to other services.
  3. The Warwick Channel-57 proposal has greater potential for interference both given and received.
  4. There may be other channels available for use by K22EH. Warwick supplied no information indicating whether other channels were studied or would be available for K22EH.

Points 3 and 4 are discussed below in further detail.

Greater Potential for Interference of Channel 57

The spectral efficiency of the Channel 57 proposal was evaluated using the method outlined in the Commission's *Sixth Order* and *OET Bulletin No. 69*. The results can be summed up as follows: KETK-DTV on Channel 22 would create 0 sq. km of predicted interference to other stations and it would receive 3 sq. km of interference from other stations. The Channel-57 proposed DTV facility suggested by Warwick would create 41 sq. km of predicted interference KWKT-DTV and would receive 337 sq. km of predicted interference. Thus, Channel 57 is less desirable on the basis of predicted interference given and received.

Furthermore, the Warwick Petition is silent on the question of potential interference to and from KETK-TV

---

\* It is illogical to suggest the migration of a full-service TV station to protect a secondary LPTV station when that LPTV station could be forced to migrate to another channel due to future allocation concerns.

(Channel 56), with which Channel 57 would be paired. There is evidence the Advanced Television Test Center was overly optimistic in its determination of the appropriate threshold for adjacent-channel interference for DTV into NTSC. The Association for Maximum Service Television (MSTV) has proposed a co-located adjacent-channel desired-to-undesired protection criterion for DTV into NTSC of +16 dB. On this basis, the proposed 188-kW Channel-57 facility would be 2 dB short of the interference requirement. KETK-DTV could be subject to power reductions to avoid interference to its paired NTSC station or vice versa,<sup>†</sup> which could substantially affect its service area.

Other Available Channels for K22EH

In the *Sixth Order*, the Commission recognized the need to provide the greatest possible flexibility to TV translator and LPTV stations to enhance their ability to migrate to other channels. For example, the Commission eliminated certain taboo requirements such as the fifth-channel intermodulation taboo.

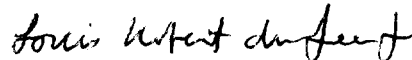
In consideration of the Commission's revised allocation rules for TV translators and LPTV stations, an allocation study for K22EH was prepared to determine what other usable channels might be available to K22EH within the framework of the Commission's DTV Table of Allotments. All channel possibilities were not examined, as the intent of this study was only to establish that there would be at least one other feasible channel possibility for K22EH.

---

<sup>†</sup> The co-location of high-powered first-adjacent channel NTSC and DTV facilities is as yet untested in the field.



A detailed allocation study revealed that Channel 25 may be used by K22EH with a modification of its facility to reduce ERP by 1.5 dB in the northeasterly direction toward the protected Grade B contour of first-adjacent channel station KLTS-TV, Shreveport, LA (Channel 24). The use of beam-tilt, ERP reduction or other techniques could be employed to meet the protection requirement to KLTS-TV without substantially affecting K22EH's present service area. Other NTSC stations considered in the Channel-25 study included: NEW, Corsicana, TX (Channel 25, BPTTL-960517K2); KLPA-TV, Alexandria, LA (Channel 25); and, KXXV(TV), Waco, TX (Channel 25). No interference is predicted to these stations. The closest co-channel DTV station is KOZJ-DTV, Joplin, MO, which is 519 km distant from K22EH. The closest first-adjacent channel DTV stations are KUVN-DTV, Garland, TX (Channel 24) and KLPA-DTV, Alexandria, LA (Channel 26), which are 180 km and 237 km distant from K22EH, respectively. The interference requirements would be met with respect to these DTV stations. Thus, we conclude that Channel 25 is at least one feasible alternative channel to which K22EH may migrate.



Louis Robert du Treil, Jr., P.E.

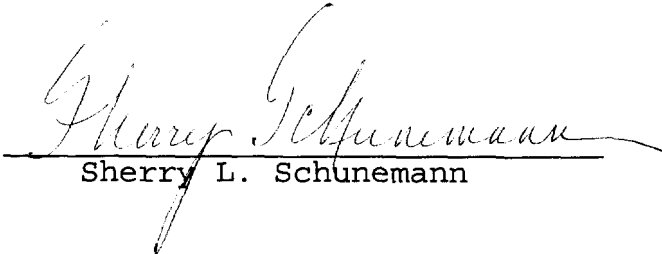
du Treil, Lundin & Rackley, Inc.  
240 N. Washington Blvd., Suite 700  
Sarasota, FL 34236  
(941)366-2611

July 7, 1997

Certificate of Service

I, Sherry L. Schunemann, do hereby certify that a copy of the foregoing "Opposition to Warwick Communications, Inc.'s Petition for Partial Reconsideration of the Sixth Report and Order" was mailed by First Class U.S. Mail, postage prepaid, this 14th day of July, 1997 to the following:

Vincent J. Curtis, Jr. Esquire  
Howard M. Weiss, Esquire  
Fletcher, Heald & Hildreth, P.L.C.  
1300 N. 17th Street, 11th Floor  
Rosslyn, Virginia 22209

  
Sherry L. Schunemann